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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,091	12/06/2001	Jeffrey B. Williams	LUMIP0131	5374

7590 09/26/2003

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EXAMINER

FRECH, KARL D

ART UNIT PAPER NUMBER

2876

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

10/010,091

Applicant(s)

WILLIAMS, JEFFREY B.

Examin r

Karl D Frech

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38-54 is/are allowed.
- 6) ☒ Claim(s) 1-22,26-33,37,55-64 and 66-68 is/are rejected.
- 7) ☒ Claim(s) 23-25,34-36 and 65 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5,7-19,22,27-33,37,55-62,64,67,68 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al 5,564,414. Walker discloses a two piece (100,10) apparatus in figure 2. When the pieces are pushed together, a counting mechanism (shown generally at 113,213), increments the number of uses in the counter. This counter may be mechanical as seen in figures 7 for example or electronic as seen in figures 5 for example. There is disclosed in column 10, line 50 a reset means. Also disclosed is an alarm signaling device for notifying the user when the last dose is approaching. Although not specifically mentioned, time and amount (claim 55) are inherent features of a “dose”. The number of uses registered on the display acts as a “flag” informing the user of the remaining doses. There are disclosed stop projections 168,169 in column 13 lines 6+ acting as pins for disabling of the apparatus when exhausted. There is disclosed a power supply (Vdd).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 6,20,21,26 and 63,66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al 5,564,414. Walker discloses that which is seen above. Walker does not disclose the "light" signal as in claims 20 and 63. However, such "light alarms" are old and well known. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include a light signal in the device of Walker. This would provide the user with a warning signal noticeable in an audibly noisy environment. Walker does not disclose the electrical interrupt as in claims 26,66. However, in electromechanical devices, such as that in Walker with the electronic counter, it is well known to provide an electrical signal to prevent an occurrence. It would have been obvious to a person of ordinary skill in the art at the time of the invention to provide an electrical "stop" signal in the apparatus of Walker in order to allow the electronic counter embodiment to control the apparatus.
5. Claims 23-25,34-36,65 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 38-54 are allowable over the prior art of record.
7. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or fairly suggest to one of ordinary skill in the art, in conjunction with ALL the other limitations of the independent claims, or any intervening claim, the light shutter for blocking use of the apparatus as in claims 23 and 65; the communication means as in claim 34 or the environmental factor considerations as seen in claim 38.

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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. D'Antonio 5,569,190 and Schroder et al 5,988,893 both disclose counting mechanisms.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D Frech whose telephone number is (703) 305 3491. The examiner can normally be reached on maxi-flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on (703) 308 4075. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0956.



Karl D Frech  
Primary Examiner  
Art Unit 2876

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